

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS C. SHRADER,

Petitioner,

v.

M. ARVIZA, Warden-FCI Mendota,

Respondent.

Case No. 1:22-cv-01413-HBK (HC)

ORDER DIRECTING CLERK OF COURT TO
REDESIGNATE CASE FROM PETITION
FOR WRIT OF HABEAS CORPUS TO
PRISONER MANDAMUS ACTION

This matter is before the Court upon *sua sponte* review of the file. Petitioner Thomas C. Shrader, a federal prisoner proceeding pro se, commenced this action by filing an “Immediate Emergency Writ of Mandamus Due to Exigent Circumstances” pursuant to 28 U.S.C. § 1361 on November 2, 2022. (Doc. No. 1). The Clerk of Court designated the action as a petition for writ of habeas corpus. (See docket). However, a closer review of the case reveals that this action does not challenge the fact or duration of his confinement. *See Heck v. Humphrey*, 512 U.S. 477, 481 (1994). Instead, Plaintiff seeks to “compel” the warden at FCI Mendota to “perform her duty,” and argues the warden has violated his “Fifth and Sixth Amendment rights” by implementing certain memorandum that restricts his telephone and canteen access. (Doc. No. 1 at 3-4); *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (“requests for relief turning on circumstances of confinement may be presented in a [42 U.S.C.] § 1983 action.”). Further, civil actions that seek

mandamus relief must comply with the Prison Litigation Reform Act and require the Court to assess the full \$400.00 filing fee. 28 U.S.C. § 1915 (b)(1).

Upon further review, the Court does not find this case warrants “immediate emergency” action. The Court will first screen Plaintiff’s petition seeking mandamus relief before directing a response from Respondent.

Accordingly, it is **ORDERED**:

1. The Clerk of Court is DIRECTED to redesignate this action as a prisoner mandamus action with Nature of Suit 540.
2. The Court vacates the November 2, 2022 order (Doc. No. 3) granting *in forma pauperis status*. The Court will review Plaintiff’s motion to proceed *in forma pauperis* (Doc. No. 2) as required by 28 U.S.C. § 1915(b)(1).
3. The Clerk is DIRECTED to reflect the new designation on the Court’s docket and reactivate Plaintiff’s motion to proceed *in forma pauperis* (Doc. No. 2) as a pending motion, and issue the appropriate notice.

Dated: December 2, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE